

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4396 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMKISHOR VIKRAMSING RAJPUT

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR.NIGAM SHUKLA, A.P.P. for respondents 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 23/10/96

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 25th April, 1996 passed by the Police Commissioner, Ahmedabad City, detaining the petitioner under the provisions of the Gujarat Prevention of Anti-social Activities Act, 1985. The detention order was executed on the same day i.e. 25th

April,1996 and since then the petitioner is under detention lodged at Porbandar District Prison, Porbandar.

This Special Civil Application was filed in this Court on 26th June 1996 and on 28th June,1996 rule returnable by 31st July 1996 was issued. So far neither any reply has been filed on behalf of the respondents nor any affidavit-in-reply has been filed by the detaining authority.

The grounds of detention enclosed with the detention order show that the petitioner is engaged in criminal and antisocial activities and four criminal cases were registered against the petitioner - two in 1993, one in 1994 and one in 1996 for various offences under the Indian Penal Code including the offences under Chapter XVI. The learned Counsel for the petitioner submitted that the grounds on which the petitioner has been detained do not constitute a case of breach of public order and at the most it is a case of law and order. The learned Counsel for the petitioner submitted that her case is fully covered by the decision of the Supreme Court rendered in the case of MUSTAKMIYA JABBARMIYA SHAIKH VS. M.N.MEHTA, COMMISSIONER OF POLICE, reported in 1995(2) G.L.R. p.1268, and therefore the detention order is illegal.

Although the detention order has been challenged on more than one grounds, the learned Counsel for the petitioner has kept his arguments confined only to the point that it was not a case of breach of public order.

I have gone through the allegations and the material on the basis of which the detention order has been passed against the petitioner and I find that the petitioner's grievance is fully covered by the decision of the Supreme Court rendered in Mustak Miya's case(Supra). In this view of the matter, the detention order cannot be sustained in the eye of law and deserves to be quashed and set aside.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 25th April, 1996 passed by the Police Commissioner, Ahmedabad City, is hereby quashed and set aside. The detention of the petitioner is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

sf-mrc

